

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 2, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. James Whitaker (R)

Members Excused: Rep. Sylvia Bookout-Reinicke (R)
Rep. Carol C. Juneau (D)
Rep. Brett Tramelli (D)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB357, SB142, SB164, SB252,
SB279, 2/21/2001
Executive Action: SB122, SB279, SB142

HEARING ON SB252

Sponsor: SEN. VICKIE COCCHIARELLA, SD32, MISSOULA

Proponents: George Wood, Montana Self-Insurers Assn.
Bob Gilbert, NFIB
Don Judge, MT AFL-CIO
Bob Worthington, Montana Municipal Insurance Auth.
Nancy Butler, State Fund
Jacqueline Lenmark, American Insurance Assn.

Opponents: None

Opening Statement by Sponsor:

SEN. VICKIE COCCHIARELLA, SD32, MISSOULA, said the bill puts into law something the Supreme Court said to do. She told the committee she had been working with workers' compensation issues since 1985. She said this bill clarifies the criteria required before an insurer converts a claimant's temporary total disability benefits or partial disability benefits to permanent partial disability benefits. The bill also provides for an immediate effective date, she said.

Proponents' Testimony:

Mr. Wood said this bill puts into law what adjusters had used for years, according to the Supreme Court decision.

Mr. Gilbert, Mr Worthington, Ms. Butler, and Ms. Lenmark all testified that they concurred with the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses: REP. PRICE asked SEN. COCCHIARELLA why the language on lines 21-22 was stricken. SEN. COCCHIARELLA said she did not think it was needed, but had no objection to having it put back in.

Closing by Sponsor: SEN. COCCHIARELLA thanked the committee for a good hearing.

{Tape : 1; Side : A; Approx. Time Counter : 11}

HEARING ON SB164

Sponsor: SEN. WALTER MCNUTT, SD50, SIDNEY

Proponents: Jerry Keck, Department of Labor and Industry
Kevin Braun, Department of Labor and Industry
Jacqueline Lenmark, American Insurance Assn.
Cheryl Lee, MAWCA
Michele Fairclough, Adjusters
George Wood, Montana Self-Insurers Assn.
John Gregory, Crawford and Company
Aidan Myhre, Montana Chamber of Commerce
Dwight Easton, Farmers Insurance
Jon Metropoulos, NAIL, Farmers Insurance
Nancy Butler, State Fund
Gregg VanHorsen, State Farm Insurance

Opponents: None

Opening Statement by Sponsor:

SEN. WALTER MCNUTT, SD50, SIDNEY, said the legislation had been requested by the Department of Labor and Industry. He said it revised certain provisions of the unemployment insurance law, the workers' compensation act, the occupational disease act, and the silicosis benefits law. The bill also addressed other matters including workers' compensation issues and certain court jurisdiction, he said.

Proponents' Testimony:

Mr. Keck presented written testimony. **EXHIBIT (buh48a01)**

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Mr. Braun said the bill clarifies the coverage requirements for truck drivers, noting an interstate motor carrier must have a presence within the state, and restores the court's jurisdiction. The bill raises the silicosis benefit \$25 per month, and sets occupational hearing loss standards, he said.

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Ms. Lenmark said she supported the bill for all the reason given previously, but said she had an amendment striking the references to an "in-state adjuster." **EXHIBIT (buh48a02)** She told the

committee that physical location does not insure adequate knowledge of Montana law.

Ms. Lee presented written testimony. **EXHIBIT (buh48a03)**

Mr. Fairclough said this bill would keep good jobs in Montana, noting that adjusters earned \$40-50,000 and hired clerical help at \$9-10. He said people prefer to work with in-state adjusters, and this bill will protect these jobs.

Mr. Wood urged the committee to pass the bill without the amendment. He noted the guaranteed funds operated by self-insurers requires an in-state adjuster.

{Tape : 1; Side : B; Approx. Time Counter : 21.7}

Mr. Gregory said in-state adjusters know the territory and he supported the bill. He said the in-state adjusters are familiar with the doctors, the lawyers and the geography of Montana. He said he meets quarterly with and works with companies like Smurfit Stone Container and Stillwater Mining. He said this doesn't happen with out-of-state adjusters.

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Mr. Easter said he supported the amendment by **Ms. Lenmark**. He said the bill will create a barrier for doing business in Montana without the amendment.

Mr. Metropolous and Mr. Van Horssen said they supported the bill with the amendment.

Ms. Butler said she was not impacted by Section 3 and she supported the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. LAIBLE asked **Mr. Gregory** if it was open now for any adjuster. **Mr. Gregory** said there is an in-state adjuster rule in the rules section. He said this law will make a change which would put teeth into what is not being enforced. He said if amended, it will stay like it is today. **REP. LAIBLE** asked if it was amended, then it would just be a clean-up bill, and no different from today. **Mr. Gregory** said it has not been applied consistently.

{Tape : 2; Side : A; Approx. Time Counter : 10.7}

REP. GALLIK asked **Mr. Wood** if there had been any problems due to out-of-state adjusters. **Mr. Wood** said there had because one firm, which was self-insured, went bankrupt and the checks didn't show up. They were told the files had been moved to Miami, and they were never found, he said. **REP. GALLIK** asked what would disallow using a third party in-state. **Mr. Wood** said that would be the recommended choice. He added it was not practical to be a self-insurer unless the company had \$500,000.

REP. LAIBLE asked **Mr. Easton** if the 64% of the carriers with less than \$100,000 would pull out. **Mr. Easton** said it would be sound economics, and they could go to third party administrators. He said the trend was to administer from service centers throughout the state. He said if the bill passes, there will be carriers who will pull out.

REP. GALVIN-HALCRO asked **Mr. Braun** if other states had laws like Section 3. **Mr. Braun** said he would provide her the information.

REP. GALLIK asked **SEN. MCNUTT** what the committee vote was in the Senate. **SEN. MCNUTT** said the amendment failed in executive action, and the bill came out unanimously without the amendment.

Closing by Sponsor:

SEN. MCNUTT asked the committee to concur on the bill without the amendment. He said this law deals with injured workers. The response needs to be timely, and the parties need to know the facts of what is going on.

{Tape : 2; Side : B; Approx. Time Counter : 0}

HEARING ON SB279

Sponsor: **SEN. WALTER MCNUTT, SD50, SIDNEY**

Proponents: Carroll South, Board of Investments
John Cadby, Montana Bankers Assn.
Gloria Paladichuk, City of Glendive
Bob Gilbert, NFIB

Opponents: None

Opening Statement by Sponsor:

SEN. MCNUTT, SD50, SIDNEY, said this act sets interest rates on new or existing businesses for value-added programs, primarily in agriculture. The act authorizes a 4 percent loan rate for the first 5 years for a loan to a business creating or retaining 10-14 jobs under the value-added program. Also, if the aggregate payroll has enough then less employees can justify the loan portfolio. The bill also allows the business to pledge the collateral if they do not have the 25% cash requirement, he said.

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Proponents' Testimony:

Mr. South said they have been formulating policy to make this work since May. Regarding the job threshold requirement, he said in May the law simply said 15 jobs with no other criteria. He said the average wage is \$22,808, so a payroll of 5 jobs times \$100,000 would also qualify if the aggregate payroll was considered. He said there were four businesses with pending loan approval right now which would meet this criteria.

Mr. Cadby said, when the local community suffers, the local bank suffers. He said this bill will help economic growth in Montana.

Ms. Paladichuk called this bill a good bill for rural areas. She said she supported the fact it addressed current businesses as well as new ones.

Mr. Gilbert urged the committee to support the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. LAIBLE asked **Mr. South** how a business accesses these funds. **Mr. South** said the Board of Investment s lends to banks, not to the borrowers. He said there is a website with the components of the loans listed. He said banks contact the board as to what is a value-added business. He noted there are application pending right now. **REP. LAIBLE** asked how much money had been loaned since the act was in place. **Mr. South** said there are four applications now, three have had approval, and one has been funded. He said the minimum amount of a loan was \$250,000.

REP. JUNEAU asked where the money went when it was paid back. **Mr. South** said the money is from the permanent Coal Tax Trust. He said the interest goes into the General Fund. **REP. JUNEAU** asked

how much money there was in terms of interest. **Mr. South** said after the jobs are created, the payroll records are sent in and the rate lowers to 2%.

REP. ROME asked **Mr. South** what specific kinds of businesses qualified. **Mr. South** said the draft had been held off until there was a written definition of value-added. He said there are tangible ways to add value and intangible ways. He said intellectual products can be value-added. He said to add value the product has to be processed in some way. He noted that picking and shipping apples added no value, but picking and making apple juice added a tangible value.

Closing by Sponsor:

SEN. MCNUTT said \$50 million of the trust was earmarked for loans. He stated the Board of Investments wanted to make loans. He said this bill make their task more workable.

{Tape : 2; Side : B; Approx. Time Counter : 25}

HEARING ON SB142

Sponsor: **SEN. MIKE SPRAGUE, SD6, BILLINGS**

Proponents: Neil Peterson, Department of Revenue

Opponents: None

Opening Statement by Sponsor:

SEN. MIKE SPRAGUE, SD6, BILLINGS, said this bill was requested by the Department of Revenue. He explained that during a drug bust, the federal government seizes the liquor license and this bill addresses what they can do with that license. The bill gives instructions to the federal government that they have a certain amount of time, 200 days, to find a buyer for the license, and an additional 180 days if the sale is complicated.

Proponents' Testimony:

Mr. Peterson presented a chart showing the time line of the SB142 process. He added that once the license is forfeited to the federal government, it is in a non-use status.

Opponents' Testimony: None

{Tape : 3; Side : A; Approx. Time Counter : 0}

Questions from Committee Members and Responses:

REP. HIMMELBERGER asked **Mr. Peterson** how the license would be made available to the public. **Mr. Peterson** said the license was part of a quota system. The purpose of this bill was so the license could be sold and the money used to fight drugs and assist local law enforcement. **REP. HIMMELBERGER** asked if the Department of Justice would own the license until a qualified operator was found. **Mr. Peterson** said yes and the license would go back to the same area it was seized in.

REP. JUNEAU asked if the owner had to be found guilty in court first. **Mr. Peterson** said yes, or there may be a plea agreement. **REP. JUNEAU** asked where the license was until then. **Mr. Peterson** said, technically, it was in the name of the owner until forfeited.

REP. WHITAKER asked **Mr. Peterson** the status of the one in Great Falls. He said technically it was forfeited to the U.S. Department of Justice, and they are trying to find a buyer.

Closing by Sponsor:

SEN. SPRAGUE told the committee he hoped the chart helped and said asked for their support.

{Tape : 3; Side : A; Approx. Time Counter : 24}

HEARING ON HB357

Sponsor: REP. DAN FUCHS, HD15, BILLINGS

Proponents: REP. BOB HELERINGER, State of Kentucky
Cliff Trexler, horseman and former representative
Sam Yewusiak, Montana Fair, MSLA
Patty Rambo, Queen City Horse Racing
Jim McGowen, horseman
Ed Kyler, Montana Quarterhorse Assn.
Bev Kudrna, horsewoman
Merit Pride, horseman

John Stewart, horseman
Lanaina Upham, horseman

Opponents: None

Opening Statement by Sponsor:

REP. DAN FUCHS, HD15, BILLINGS, said the bill is designed to revitalize the horse racing industry. He suggested racing is a significant part of the agricultural industry. He presented a chart to show what had happened to horse racing since 1981, noting the number of race days per year had declined from 131 to 40. **EXHIBIT (buh48a04)**

Proponents' Testimony:

REP. HELERINGER told the committee that horse racing provided 53,000 jobs in his state of Kentucky, and created \$2-3 billion in revenue. He told the committee that, in addition to being a legislator and attorney in Kentucky, he teaches equine law.

{Tape : 3; Side : B; Approx. Time Counter : 0}

He said there is a thoroughbred fund and a standardbred fund in Kentucky which is used to supplement the purses. He said this bill will give the Board of Horse Racing the ability to promote the industry. He told the committee the last horse to win the Kentucky Derby from Montana was in 1889. He explained this bill will take a part of the video gambling machine gross income tax and deposit in the Board of Horse Racing account. The video gambling machine tax is 15% of the net income. The bill proposes 5% of this tax be taken leaving 95% to go to the General Fund.

Mr. Trexler said horse racing is a sport, not a game. He said the races contribute to the economy through purchase of food, hotel rooms, and gas. He said 20% of the money is to go to Montana breeders, noting they are the ones who buy, feed, pay taxes and own land in Montana.

Mr. Yewusiak said perhaps this bill will stimulate some of the other tracks which have been closed to start up again.

Ms. Rambo said the Queen City Horse Racing in Helena is run by volunteers because it does not make enough to pay wages. She said she was the non-paid track manager and race producer. She called horse racing an agricultural industry, and said the economic impact from horse racing goes deeper than people could see.

Mr. McGowen said he had been in horse racing for 38 years in Montana and the surrounding states. He noted that in Helena they used to attract 6-700 head to the races. He said the last race they didn't have enough horses to race three days in a row. He said every farm and ranch used to race horses, but they don't anymore because the purse is not high enough.

Mr. Kyler said he has a Quarterhorse ranch where he raises ropers and racers. He said he was looking at the possibility of looking at selling and moving to another state where horse racing was stronger. He said this bill will help the purse and encourage the breeders' program.

Ms. Kudrna said the Horse Racing Alliance supported the bill.

Mr. Pride said he was an owner and trainer of Quarterhorses. He said it was hard to compete with colts in other states, because they can't fill a race for Montana bred horses. He said the industry was "going down the tubes" and needed help.

Mr. Stewart said he had been in horse racing since the 1960's. He said he thought this was a good bill which would get something done. He stated people pay a lot of money for horses and spend a lot of money at races. He said when the workers' compensation went so high, no one could afford to race. He asked the committee to push this bill through and bring horse racing back again.

Ms. Upham said her husband was a jockey and she had grown up around horse racing. She said they were looking at moving because of the low wages.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. GALVIN-HALCRO asked if there was a tax on simulcast betting. **REP. FUCHS** said there was and **REP. GALVIN-HALCRO** asked why that was not included. **REP. FUCHS** said in 1986 when electronic gambling came in, and was being put on the ballot, the horsemen were not sure if it would pass so they didn't go with it. He said the horsemen never got the money proposed for them from the "gambling pie."

REP. JUNEAU said to **REP. FUCHS** that it seemed to her a lot of money was coming out of the General Fund. She said that everyone was trying to find money and this bill would cost a lot. She asked if there should be an amendment to increase the gambling tax to make up the difference. **REP. FUCHS** said, no, the committee should try to move the bill along and let him find the money. He

said he thought he might be able to find some before it went to Appropriations. **REP. JUNEAU** asked why it had been delayed. **REP. FUCHS** said it was delayed because they were waiting for a time **REP. HELERINGER** could come to Montana from Kentucky to testify.

{Tape : 4; Side : A; Approx. Time Counter : 0}

REP. MATTHEWS asked **Mr. Murfitt** about simulcast racing. **Mr. Murfitt** said live racing was a more valuable product because it drove the economy.

REP. LAIBLE asked if the bill would take \$750,000 out of the General Fund to fund Horse racing. **REP. FUCHS** replied it depended on how they decided to proceed. He said he would agree to a four year sunset clause to see how it works.

CHAIRMAN MCKENNEY suggested the committee tuck the bill away for a few days, and hopefully, they could move it along because it promoted a Montana industry. He added that passing the bill would say Montana wants to have horse racing and is willing to promote it.

Closing by Sponsor:

REP. FUCHS thanked the witnesses who testified and had come so far. He presented a chart of the decline of horse racing in Montana. He said when a Montana horse wins a major horse race in another state, that too promotes Montana. He said this was a clean and natural industry for Montana which did not involve any dirty water or air, but was an industry which Montana could promote with pride. **EXHIBIT (buh48a05)** He added the Montana horse which won the Kentucky Derby in 1889 was named "Spokane."

EXECUTIVE ACTION ON SB142

Motion/Vote: **REP. LAIBLE** moved that **SB142 BE CONCURRED IN. Motion carried unanimously. 19-0.** **REP. HIMMELBERGER** will carry the bill in the House.

EXECUTIVE ACTION ON SB279

Motion: REP. ROME moved that **SB279 BE CONCURRED IN.**

Discussion:

REP. LAIBLE noted that the system has been in place since the special session but there had only been one loan. These changes would allow for the creation of more jobs, he said.

REP. GALLIK asked if there was any way the legislature could get a report back.

Mr. Higgins said the bill could be amended to require a biennial report. He said the Board of Investments also had an annual report which goes into great detail to show how the loans are working.

REP. GALLIK asked which method is the least costly.

Mr. Higgins said a biennial report of the board would have adequate information.

REP. BROWN said he has always had a concern about bills which help certain people to the detriment of others. This bill, he said, takes that into account.

REP. STEINBEISSER said since the banks are involved and the loans are not made by the board, there is no fraud likely.

REP. JUNEAU said she didn't think the bill was clear enough on the job creation and the wage level. She thought it was possible the loan would be used for creating low wage jobs only. She also said she saw the possibility of loans being made to companies which didn't need them. She said she was not in support of the bill.

EXECUTIVE ACTION ON SB122

Motion/Vote: REP. BROWN moved that **SB122 BE CONCURRED IN. Motion carried unanimously. 19-0.** REP. LAIBLE will carry the bill in the House.

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh48aad)